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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,858	07/14/2003	Gregory D. Smith	2835-71459	6984
23643	7590	11/02/2005	EXAMINER	
BARNES & THORNBURG 11 SOUTH MERIDIAN INDIANAPOLIS, IN 46204			KYLE, MICHAEL J	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/618,858

Applicant(s)

SMITH ET AL.

Examiner

Michael J. Kyle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 10, 13 and 18-20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-17 is/are allowed.
- 6) ☒ Claim(s) 1-6, 11 and 12 is/are rejected.
- 7) ☒ Claim(s) 7-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/2/05, 2/23/04, + 7/14/03</u> <i>ML 8/24/05</i> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 10, 13, and 18-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species I and III, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 28, 2005. It is noted that applicant did not specify the election being made with or without traverse. However, because no arguments were filed against the restriction requirement, the election is considered to be without traverse.

Claim Objections

2. Claim 3 is objected to because of the limitation “a second opposing end”. It is unclear if this is the same “second opposing end” that is provided in claim 1. As best understood by examiner, it is. If this is the case, this second opposing end should be referred to as --the second opposing end-- or --said second opposing end--.
3. Claims 4 and 11 are objected to because of the limitation of “said frame”. A frame has not been previously provided for in these claims, or the claims from which they depend.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 4 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting

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to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the relationship of the “wall” and “frame” to the rest of the claimed features. What are the wall and frame a part of? It is unclear if the wall are frame are part of the stabilizing device, the housing, or possibly some feature external of the stabilizing device. Are they related to the front and rear surfaces?

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-4 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Bartsch (U.S. Patent No. 5,555,960). Bartsch discloses a handgrip (84), a retraction mechanism (96), a flexible member (78) coupled to the handgrip and at least a portion (95) of the retraction mechanism. The retraction mechanism normally exerts a retraction force on the flexible member.

8. With respect to claim 2, the retractions mechanism (96) translates linearly to pay out the flexible member (78) when an extension force acting opposite to and greater than the retraction force is applied to the handgrip to pay out the flexible member to an extended position.

9. With respect to claim 3, Bartsch discloses the device to include a housing with front (67) and rear (77) surfaces with the retraction mechanism mounted therebetween. The flexible

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member extends from the handgrip, through a first guide aperture (99) formed in the front surface. The second opposing end is coupled to an anchorage (95).

10. With respect to claims 4 and 11, Bartsch discloses a mounting plate (105, see embodiment in figure 21) with a second guide aperture (103). The mounting plate is configured to mount on one side of a wall (101) and to a frame (9). The frame is disposed on the other side of the wall.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 5, 6, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartsch in view of applicant's admitted prior art ("APA"). Bartsch discloses the wall as being integral with a travel case, not a vehicle or building. On page 1 of applicant's specification, the use of know stabilizing device in vehicles and buildings is discussed (2nd paragraph under "BACKGROUND AND SUMMART OF THE INVENTION"). As addressed earlier, Bartsch discloses the device to include. In that it is known to use stabilizing devices that include a wall (such as Bartsch's) in the environment of a vehicle or building (as taught by APA), one having ordinary skill in the art would recognize the wall of Bartsch may be integrally incorporated into a vehicle or building. It would have been obvious to one having ordinary skill in the art at the time

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of the invention to make the wall integral with a vehicle of building, as taught by APA, in order to provide stability to vehicle occupants or assist building occupants in standing or sitting.

Allowable Subject Matter

13. Claims 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Claims 14-17 are allowed.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are cited to further show the state of the art with respect to retractable handles: Martin, Wood, Siegert et al, Taylor et al, Van Himbeeck et al, Aumasson, Cnockaert et al, and Sadow.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Kyle whose telephone number is 571-272-7057. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mk


ROBERT J. SANDY
PRIMARY EXAMINER